IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 118 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF INCOME TAX

Versus

SHAILESHKUMAR HIRALAL & CO.

Appearance:

1. INCOME TAX REFERENCE No. 118 of 1995
MR AKIL KURESHI with MR MANISH R BHATT for Petitioner
SERVED BY RPAD - (N) for Respondent

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 18/09/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

In this reference at the instance of the revenue, the following question is referred for the opinion of

this Court in respect of assessment year 1985-86 :-

"Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in holding that the assessee firm was entitled to registration although one of partners was partner in the firm in two capacities namely as individual and as representative of H.U.F. ?"

2. We have heard Mr Akil Kureshi, learned counsel for the revenue. Though served, none appears for the respondent-assessee.

3. The learned counsel for the revenue fairly states that the controversy raised herein is concluded in favour of the assessee by the decision of the Apex Court in CIT vs. Bhagyalakshmi & Co., 55 ITR 660.

We accordingly answer the question in the affirmative i.e. in favour of the assessee and against the revenue.

4. The reference accordingly stands disposed of with no order as to costs.

(M.S. Shah, J.)

(D.A. Mehta, J.)

sundar/-